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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the seventh periodic report of Argentina

Addendum

Information provided by Argentina in follow-up to the concluding observations*

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* The present document is being issued without formal editing.

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1. Twenty-five years after the establishment of the National Council for Women and in a reaffirmation of the firm commitment of Argentina to defend women's rights to be free from all forms of discrimination and violence, a major institutional step forward was taken with the creation of the National Institute for Women. It was established through Decree No. 698/2017, as a jurisdictionally decentralized body of the Ministry of Health and Social Development, to take over the functions of the National Council for Women with a view to strengthening comprehensive public policies for the empowerment of women and the elimination of violence.[1]

2. The Committee recommends that the State party approve the draft bills establishing gender parity in the executive branch (No. 485/15), in the Supreme Court (Nos. 474-D-2015, 169-D-2016, 403-D-2016, 905-D-2016 and 1091-D-2016) and in elective positions (Nos. 1655-D-2015, 1198/16, 1192/16, 1063/16, 1032/16 and 488/16) (see CEDAW/C/ARG/CO/7, para. 27(a)).

3. In response to the Committee's recommendation on parity and the representation of women in the public sphere, the Government of Argentina informs the Committee that it is working to finalize a covenant on equality. Accordingly, the National Institute for Women is leading preparation of the first national equal opportunities and rights plan, which has the support of all agencies in the national public administration and will be launched soon. In addition, the national equal opportunities and rights plan is closely linked to the 2030 Agenda for Sustainable Development (Sustainable Development Goal 5), the recommendations of the Beijing Declaration and Platform for Action, the Montevideo Strategy of the Economic Commission for Latin America and the Caribbean and the national action plan for the implementation of Security Council resolution 1325 (2000) on women, peace and security. Moreover, the national equal opportunities and rights plan is aligned with No. 53 of the 100 goals of the Argentine Government and the Gender Parity Initiative, which is promoted by the Inter-American Development Bank and the World Economic Forum. The Initiative, which Argentina joined in April 2017, will form part of the national equal opportunities and rights plan. Furthermore, the National Institute for Women is committed to participatory development of the plan under the Open Government Initiative, which has made it possible to include inputs from civil society.[2] The plan reflects a crosscutting approach to creating the conditions for achieving substantive gender equality in the country.

4. In this connection and as regards policy, the Government informs the Committee that the equal political participation of men and women is recognized as a human right in a democratic, representative, participatory and inclusive society, in accordance with the principles of equality and non-discrimination, and is provided for in article 37 and article 75, paragraphs 22 and 23, of the Constitution, and in the Convention on the Elimination of All Forms of Discrimination against Women, which has constitutional status, and other instruments signed by Argentina at United Nations conferences in Quito (2007) and Brasilia (2010).

5. In an important step forward, Argentina passed the Act on Gender Parity (No. 27.412). Pursuant to the Act, adopted in November 2017, 50 per cent of candidates for national legislative and political party positions in 2019 must be women, with their names placed on the lists in a way that ensures parity.

6. As regards women's participation in the judiciary, information from the Supreme Court indicates that women account for 44 per cent of all personnel: 33 per cent of judges, 50 per cent of officers, 52 per cent of administrative personnel and

[1] https://www.argentina.gob.ar/inam/quienes-somos.

[2] For further information on the status of implementation of the commitments made, visit https://trello.com/tercerplandeacciondegobiernoabierto.

12 per cent of general services personnel. Four men and one woman are currently members of the High Court, while in the Attorney-General's Office, 49 per cent of the personnel are women.

7. There are currently seven parliamentary bills related to the composition of the Supreme Court of Justice of the Nation: three are being considered in the Chamber of Deputies and 4 in the Senate.[3]

8. Lastly, we are pleased to inform the Committee that Argentina, as part of its support for regional gender policies, offered to host the office of the United Nations Entity for Gender Equality and the Empowerment of Women, which operates from the premises of the National Institute for Women, under the "Country for equality" programme.

9. The Committee urges the State party to initiate accountability procedures to ensure that all provinces approve protocols on the practice of non-punishable abortion, in line with the decision of the Supreme Court in 2012 and the national protocol for the comprehensive care of persons entitled to legal interruption of pregnancy (see CEDAW/C/ARG/CO/7, para. 33(b)) and to accelerate the adoption of the bill for the voluntary interruption of pregnancy increasing legal access to abortion, not only in cases of rape and risk to the life or health of the pregnant woman but also other circumstances such as incest and when there is a risk of severe fetal impairment (CEDAW/C/ARG/CO/7, para. 33(d)).

10. Currently there are ten provinces that have adopted the national protocol to guarantee the right to a legal interruption of pregnancy: Jujuy, Salta, Chaco, Santa Fe, La Rioja, Entre Ríos, Misiones, La Pampa, Santa Cruz and Tierra del Fuego; six that have their own protocols: Chubut, Río Negro, Neuquén, Buenos Aires, Autonomous City of Buenos Aires and Catamarca; four jurisdictions that have not adopted the national protocol but apply the national regulations: Mendoza, San Juan, San Luis and Formosa; and only four that neither have a protocol nor have adopted the national one: Córdoba, Santiago del Estero, Tucumán and Corrientes. In other words, as of November 2018, protocols on the practice of legal abortion have been implemented in more than 80 per cent of the national territory.[4]

11. A National Plan to Prevent and Reduce Unintended Pregnancy in Adolescents[5] has been implemented to achieve the objectives set out and recommended by the Committee, with the coordinated efforts of the Argentine ministries of health, education and social development. This strategic plan has four components: (1) raising awareness of the scale of the problem of adolescent pregnancy; (2) comprehensive sex education beginning in primary school and especially at the secondary level, where more counselling should be provided; (3) availability of contraceptives (oral, intrauterine devices and subdermal implants); and (4) a guarantee of safe and lawful termination of pregnancy in cases of abuse. The Plan has been fully operational since November 2017. In 2019, the Plan will have a budget of 489 million pesos (approximately US$13 million).

12. With regard to the reduction of unintended pregnancy in adolescents, the goal is to achieve greater coverage by outreach units based in schools and communities in

[3] Parliamentary bills on gender parity in the composition of the Supreme Court of Justice of the Nation: Senate – Senate record: 1191-s-2018/0395-s-2018/0520-s-2018/0813-s-2017; Chamber of Deputies – Deputies record: 1324-d-2018/0763-d-2018/0401-d-2018. http://www.senado.gov.ar/parlamentario/parlamentaria.

[4] For further information on legal interruption of pregnancy in Argentina see https://drive.google.com/file/d/1-j3PzujjIbnTWJ7N-CAQfFr6spMMnFG_/view?ts=5b688199.

[5] See National Strategy for Children and Adolescents Plan document at https://www.argentina.gob.ar/sites/default/files/argentina._documento_plan_nacional_de_prevencion_y_reduccion_embarazo_no_intencional_en_la_adolescencia._vf_0.pdf.

priority provinces and departments in an effort to reach the largest possible number of adolescents. During the last quarter of 2018, there will be an assessment of the coverage achieved by province and of the level of unintended pregnancy rates in adolescents to define how and to what extent the Plan will be expanded in 2019. As a result, these data may be available by the time of submission of the 2020 national periodic report.

13. In terms of legislation, the Argentine Government can inform the Committee that in 2018 the bill on the voluntary interruption of pregnancy[6] was addressed for the first time in parliament, in the Chamber of Deputies. The bill received preliminary approval following a historic debate in plenary meetings with more than 1,000 speakers in the two chambers. It is scheduled to be considered in 2019 or 2020.

14. As an example of the progress made to ensure and facilitate access to legal abortion, in October 2018 the National Medicines, Food and Technology Administration authorized, through provision No. 946/2018, sales of misoprostol for gynaecological purposes in pharmacies, solely for the cases provided for in current regulations. This follows the decision adopted in August 2018 that authorized production of the drug in Argentina.

15. The Committee recommends that the State party review the current negligent handling of complaints filed by indigenous women before the Ministry of Health about the harmful use of pesticides, fertilizers and agrochemicals and ensure that such cases are solved in a timely and appropriate manner, in line with the Committee's general recommendation No. 34 (2015) on the rights of rural women (see CEDAW/C/ARG/CO/7, para. 41(d)).

16. This is consistent with the content of general recommendation No. 34, paragraph 19, according to which States parties should adopt laws, policies, regulations, programmes, administrative procedures and institutional structures to ensure the full development and advancement of rural women. Argentina is bound by its constitution and by treaties to give effect to the right to health, including through care for and conservation of the environment, and to enforce that right throughout the country, and also has an obligation to promote that right through affirmative actions (art. 75, para. 23, Constitution).[7]

17. Article 43 of the Constitution provides that affected citizens may initiate legal proceedings through actions taken by the Ombudsman (art. 86 of the Constitution), and the associations that support such objectives (to defend collective rights) are fully entitled to lodge an *amparo* action (injunction) against any form of discrimination or in connection with the rights relating to protection of the environment, competition, users or consumers, in addition to collective rights in general. It is clear, moreover, that this provision, as in the case of any constitutional provision, is also directly applicable.

18. Regarding the Committee's general recommendation No. 34, and more specifically complaints lodged in cases of harm caused by pesticides, toxic agrochemicals and other compounds that harm health, especially the health of rural women, it is stated in paragraph 12 that States parties should take steps to alleviate and mitigate these threats.

19. In that regard Argentina informs the Committee, as background information, of the establishment of the National Programme for the Prevention and Control of Poisoning by Pesticides. It was established on 9 February 2010, under the authority of the Ministry of Health by the Ministry's decision No. 276/10, to control the public health impact of the increasing use of pesticides in agricultural activities. However,

[6] Sent to the Senate under No. CD-22/18.

[7] The preamble to Decree No. 21/2009 – Ministry of Health.

it should be noted that there are no national laws regulating the use and control of agrochemicals. While most provinces have the same laws, there are some weak areas related to use and control and a lack of implementation of good agricultural practices. As a result, starting from 2015, it was decided that all complaints relating to the misuse of pesticides or agrochemicals should be forwarded to the provincial prosecution services with a request for them to report on the action taken.

20. The 2016 report of the Office of the Auditor-General shows that an examination of the records at the head office of the Ministry of Health of general complaints to which the Office of the Auditor-General had access shows "follow-up of cases, interviews with the complainants and municipal or communal authorities and the presentation of conclusions and recommendations". Forty-one files of complaints of the misuse of agrochemicals were inspected by the National Directorate of Health Determinants and Investigations. They are dated between 2009 and 2014 and most of them were filed in the context of the creation of the National Centre for Agricultural Research.[8] It should be noted that none of the complaints reviewed were made by indigenous women.

21. In cases brought before the Argentine justice system, guilty verdicts are normally handed down for activities that affect the health of the population owing to the improper use of pesticides and agrochemicals. One important case considered by the Supreme Court was that of the Malvinas Argentinas district of the city of Córdoba, which began a resistance movement more than a decade ago when the Madres del Barrio Ituzaingó (mothers of the Ituzaingó district) organized as a result of child deaths from cancer. The Supreme Court upheld the conditional sentence of three years' imprisonment for the farmer and the aerial application pilot who had been charged in August 2012 with wilful environmental pollution.

22. In reality, the many and varied municipal ordinances and legal judgments issued apply different criteria, which is why we cannot provide a full status report. However, a growing number of cities in major rural areas have banned the use and even sale of glyphosate,[9] which indicates that there is support for a change in criteria for the use of agrochemicals and pesticides.

23. In this connection, Argentina informs the Committee that for the entire national public administration, by Decree No. 934/2017 the Government transferred authority in the field of environmental impact assessment and strategic environmental assessment to the Ministry of the Environment and Sustainable Development. This is a positive and highly significant step for environmental management. In the past, authority for conducting environmental impact assessments in the national public administration was dispersed across sectoral areas. With Decree No. 934/2017 this authority was concentrated in the environmental area.

24. In its 2017 report on the state of the environment,[10] the Secretariat of the Environment and Sustainable Development provides an analysis of the environmental

[8] https://www.agn.gov.ar/files/informes/2016_090info.pdf 2016 report of the Office of the Auditor-General.

[9] The district is located to the south-east of the city of Córdoba, past the Avenida Circunvalación road between national route 9 and the Córdoba-Pilar highway. There are approximately 5,000 people living in 1,200 houses in 30 blocks. To the north there is an industrial zone on the other side of the road to the Capilla de los Remedios, and to the west, the Ituzaingó y los Eucaliptos district. It also borders rural areas to the north, east and south. With a vote of an absolute majority comprising judges Ricardo Lorenzetti, Elena Highton de Nolasco, Horacio Rosatti and Carlos Rosenkrantz, the Court declared the appeal filed by the defence lawyers on behalf of the convicted persons inadmissible and the judgment of the First Criminal Chamber was upheld. The complaints taken into account by the courts included an official study that determined that among 142 children from the district, 114 showed the presence of toxic agrochemicals.

[10] https://www.argentina.gob.ar/sites/default/files/completo-compressed.pdf.

situation in Argentina, taking into account social, economic, cultural and ecological aspects and the potential impact that productive activities might have on the territory.

25. The 2017 report was the third report to the nation, fulfilling one of the annual obligations established by the General Environment Act No. 25.675. It should be noted that Argentina is the country with the second largest area under organic production, after Australia. In 2016, it was estimated that there were 3 million hectares in organic agriculture, of which 2.6 million (93 per cent) were for livestock production and 224,000 hectares (7 per cent) for crop production.

26. Article 52 of Act No. 27.431 (adopting the 2018 budget), established the Administrative and Financial Trust Fund for Environmental Compensation under the auspices of the Ministry of the Environment and Sustainable Development. It did so pursuant to article 34 of Act No. 25.675, to provide for environmental quality, prevention and mitigation of harmful or dangerous effects on the environment and response to environmental emergencies, as well as protection, preservation, conservation, restoration or compensation for ecological systems and the environment. The measure is a significant advance in regulatory management, as it is a formal regulation that also establishes an economic and financial mechanism, with the status of law, that has a very positive impact in terms of environmental management, as it provides funding for numerous strategies and components of environment-related actions.

27. First came the adoption of the National Biodiversity Strategy and 2016–2020 Action Plan; and then Decree No. 1347/97, which regulates the authority of the National Advisory Commission for the Conservation and Sustainable Use of Biological Diversity, established by the same decree, to "(d) draft and submit to the implementing authority, for its approval, the National Biological Diversity Strategy".[11]

28. In the area of agro-industry, the Ministry of the Environment and Sustainable Development decision No. 249-E/2017 established the Federal Environmental Control Network, which acknowledges that basic powers in the field of pollution control are in the hands of the environmental police in the provinces; the role of the national environmental authorities is to promote sustainable public policies based on consultation, joint efforts and mutual support to strengthen local capacities in environmental control. In that vein, the decision creates an institutional framework that facilitates coordination, dialogue among peers and collaboration to improve the environmental control capacities of each of the country's environmental authorities. To that end, the decision established the Federal Environmental Control Network, under the aegis of the Secretariat of Environmental Control and Monitoring of the Ministry of the Environment and Sustainable Development.

29. Act No. 25.675, the General Environment Act, states that national authorities should encourage public consultations or hearings prior to the authorization of activities that could have a serious and negative environmental impact, and that they should take into account the community epidemiological studies and data produced by university researchers and scientists with regard to such impact (art. 4).

30. To complement the foregoing information, in its 2020 national periodic report the Argentine Government will provide greater details on its response to the Committee's recommendation, taking into account regulatory and institutional changes and the forthcoming launch of the equal opportunities and rights plan, which will create an entity for the coordination and monitoring of public policies on the enforcement of women's rights.

[11] Decision No. 151/2017 of the Ministry of the Environment and Sustainable Development, National Biodiversity Strategy and 2016–2020 Action Plan.